

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SAMANTHA GARCIA, on behalf of S.S.,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 02/21/2023

22-CV-7170 (PGG) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

The above-referenced action has been referred to Magistrate Judge Moses. All motions and applications must be made to Judge Moses and in compliance with this Court's Individual Practices in Civil Cases (available on the Court's website at <https://nysd.uscourts.gov/hon-barbara-moses>).

Case Schedule

Pursuant to the Standing Order in No. 16-MC-00171 dated April 20, 2016, and the Order of Service and Scheduling Order entered on December 14, 2022 by the Hon. Paul G. Gardephe, United States District Judge (Dkt. 13), the parties' upcoming deadlines are as follows:

- Within **90** days after the Order of Service (that is, by **March 14, 2023**), the Commissioner must serve and file the Electronic Certified Administrative Record (e-CAR), which will constitute the Commissioner's answer, or otherwise move against the complaint. **Plaintiff is not required to file any documents or take any action before this date. If the Commissioner files a pre-answer motion to dismiss plaintiff's Amended Complaint, the Court will issue a scheduling order informing plaintiff of her deadline to respond to that motion.**
- If the Commissioner files the e-CAR and then wishes to file a motion for judgment on the pleadings, the Commissioner must do so within **60** days of the date on which the e-CAR was filed.
- The plaintiff must then file an answering brief within **60** days of the filing of the Commissioner's motion. The Commissioner may file a reply within **21** days thereafter.

Consenting to Magistrate Judge Jurisdiction

The Order of Service also required the parties to discuss whether they are willing to consent under 28 U.S.C. § 636(c) to conducting all further proceedings before the assigned magistrate judge, that is, Judge Moses. The attorney who represents the Commissioner of Social Security in this case, Michael P. Corona, reports by letter dated February 13, 2023 (Dkt. 18), that he attempted to reach the plaintiff by telephone discuss this issue, but was unsuccessful. The *pro se* plaintiff reports by letter dated February 17, 2023 (Dkt. 19) that she received a copy of Mr. Corona's February 13 letter but did not previously receive any calls from him, and consequently was appalled and disappointed by Mr. Corona's letter. Plaintiff does not address whether she is willing to consent to conducting all further proceedings before Judge Moses.

Plaintiff is hereby directed to telephone or email Mr. Corona (his number and email address are in his letter) to discuss whether she is willing to consent to conducting all further proceedings before the assigned Magistrate Judge. Mr. Corona will be able to explain the process of consenting to Magistrate Judge jurisdiction and why consent tends to preserve resources and promote efficiency. However, consent must be voluntary and unanimous, and there is no penalty for withholding consent. Mr. Corona may also be able to assist the plaintiff in understanding the schedule summarized above.

Plaintiffs' Letters

Plaintiff has contacted the Court numerous times by letter. For example, on December 19, 2022, plaintiff submitted a letter (Dkt. 15) consisting of the following text:

Hi this is Samantha Garcia for case #22CV7170 I kind of am a bit confused on to how to proceed with the huge packet I received of documents? Can someone contact me to give me further instructions? Please!!

On February 17, 2023, plaintiff submitted two letters. The first, addressed to Judge Gardephe, discussed her receipt of Mr. Corona's letter, as described above. The second letter (Dkt. 20) consists of the following text:

Hi this is Samantha Garcia for Sebastian Santiago. Case #22CV7170 I was reaching out to find out the status of my case and what to expect next?

Plaintiff is reminded that the Court cannot offer legal advice to a party or tell her what to expect. The Pro Se Intake Unit may be of assistance in connection with basic court procedures, but cannot respond to letters placed on the Court's electronic docket, which are routed to the assigned District Judge or Magistrate Judge. The Pro Se Intake Unit is located in the Thurgood Marshall Courthouse at 40 Centre Street, New York, NY, and may be reached by telephone at 212-805-0175.

Legal Clinic

There is also a free legal clinic in this District to assist pro se litigants in civil cases. The Clinic is run by a private organization called the New York Legal Assistance Group; it is not part of, or run by, the Court. The Clinic is also located in the Thurgood Marshall Courthouse at 40 Centre Street, New York, New York, in Room LL22. Appointments may be made by telephone at 212-659-6190. Plaintiff is encouraged to contact the Clinic, which may be able to offer her direct assistance or, alternatively, refer her to attorneys willing to represent her in this matter at no cost or on a contingency basis.

Dated: New York, New York
February 21, 2023

SO ORDERED.



BARBARA MOSES
United States Magistrate Judge